

Message Text

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PAGE 01 TAIPEI 05947 060540Z
ACTION EA-12

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E.O. 11652:N/A
TAGS: BDIS, TW
SUBJECT: TRADE COMPLAINT: SOHIO VS. CPDC

REF: (A) USDOC 14749 (B) TAIPEI 5127 (C)USDOC 13586

1. EMBASSY NOW HAS DEFINITIVE WRITTEN REPLY FROM CHINA PETROLEUM DEVELOPMENT CORPORATION (CPDC). IN VIEW OF COMPLETELY DIFFERENT INTERPRETATIONS BY BOTH PARTIES OF THE APRIL 25, 1975 CONTRACT BETWEEN VISTRON CORPORATION OF CLEVELAND AND CPDC, ANY FURTHER EMBASSY INITIATIVES WOULD NOT BE FRUITFUL.

2. TEXT OF CPDC LETTER DATED AUGUST 31 SIGNED BY VICE PRES C C CHOW IS AS FOLLOWS:

AS YOU CAN SEE FROM THE COPY OF CONTRACT BETWEEN CPDC AND VISTRON AIRPOUCHED TO YOU FROM WASHINGTON D.C., IT DOES NOT GIVE VISTRON ANY EXCLUSIVELY RIGHTS TO SELL THEIR CATALYST C-41 TO US, HOWEVER IT DOES GIVE THEM THE FIRST RIGHT OF REFUSAL TO SELL THE CONTRACTED SPECIFICATIONS CATALYST AT THE LOWEST PRICE OFFERRED BY OTHER SUPPLIER.

AFTER DIRECTLY PURCHASING SEVERAL CHARGES TOTALLING MORE THAN US DOLS 5.8 MILLIONS OF CATALYST C-41 FROM
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VISTRON, CPDC DISCOVERED THAT THE PERFORMANCE OF THEIR CATALYST HAS NOT BEEN CONSISTANT. AFTER DISCUSSIONS WITH THE PROCESS LICENSOR, SOHIO COMPANY, AND FROM OUR PRACTICAL OPERATION EXPERIENCES, WE LEARNED THAT THE DIFFERENCES IN CHARACTERISTICS OF THE CATALYST ARE CAUSED BY THE LOOSELY DEFINED SPECIFICATION SETTLED BETWEEN CPDC AND VISTRON IN THE CONTRACT. IN ORDER TO

GET STABLE CATALYST PERFORMANCE, A PROPERLY REVISED SPECIFICATION IS DEVELOPED.

VISTRON CLAIMED THAT THE REVISED SPECIFICATION IS NOT THE SAME AS THE ONE SETTLED IN THE CONTRACT AND THEREFORE THE PRICE SETTLED IN THE CONTRACT CAN NOT BE APPLIED TO IT.

AT THE SAME TIME, SOHIO INFORMED CPDC THAT ANOTHER US SUPPLIER, UNITED CATALYST INC. IS ALSO ITS APPROVED CATALYST C-41 PRODUCER. ACCORDING TO OUR GOVERNMENT REGULATION FOR GOVERNMENT ENTERPRISE FOREIGN PROCUREMENT, IF THERE ARE 2 OR MORE THAN 2 QUALIFIED SUPPLIERS WHO CAN SUPPLY THE GOODS, THE PROCUREMENT SHOULD BE HANDLED BY CENTRAL TRUST OF CHINA AND HENCE THE OPEN TENDER.

AT OUR URGING, VISTRON AT FIRST QUOTED FOB US DOLS 5.75/LB FOR THE CONTRACTED SPECIFICATION CATALYST (UPDATED CONTRACTED PRICE IS FOB US DOLS 5.75/LB AFTER NOV. 1977) AND FINALLY QUOTED A FIXED C&F PRICE FOR SUPPLYING CATALYST C-41 ACCORDING TO THE CONTRACTED SPECIFICATION AT US DOLS 5.35/LB. AS AN ALTERNATE THEY ALSO QUOTED A FIXED C&F PRICE OF US DOLS 6.85/LB FOR OUR SPECIALLY REQUESTED SPECIFICATION CATALYST C-41. IN THE NEGOTIATION ARRANGED BY CENTRAL TRUST UNCLASSIFIED

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OF CHINA, UNITED QUOTED ITS C&F PRICE FOR SUPPLYING CPDC'S SPECIALLY REQUESTED SPECIFICATION AT US DOLS 5.802/LB ONLY. THEREFORE UNITED WAS AWARDED THE PROCUREMENT. UNGER

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